

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Cr. No. 08-20281

D-1, Kevin Tracy Frank,

Honorable Sean F. Cox

Defendant.

ORDER
DETERMINING DEFENDANT COMPETENT TO STAND TRIAL

This matter previously came before the Court upon the stipulation of counsel for the Court to order a competency evaluation of Defendant Kevin Tracy Frank (“Defendant”).

On July 31, 2008, this Court issued an “Order Referring Matter for Competency Evaluation and Rescheduling Motion and Trial Dates” wherein the Court ordered a competency evaluation of Defendant. Thereafter, Thomas G. Brewer, Ph.D. (“Dr. Brewer”) evaluated Defendant and submitted a written report to the Court, wherein Dr. Brewer opined that Defendant is competent to stand trial.

On October 17, 2008, the Court conducted a hearing. At that hearing, the Government and Defense Counsel both indicated their belief that Defendant is competent to stand trial.

Nevertheless, this Court must determine whether Defendant is competent to stand trial. In order for Defendant to be deemed incompetent to stand trial in this action, this Court must determine that, by a preponderance of the evidence, Defendant is presently suffering from a mental disease or defect rendering her mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against her or to assist properly in his

defense. 18 U.S.C. § 4241. “The determination of whether a defendant is mentally competent to stand trial is a question left to the sound discretion of the district court, with the advice of psychiatrists [or other mental health professionals].” FED. PROC. § 22:549, *Hearing and Determination as to Competency*; *United States v. Davis*, 365 F.2d 251, 256 (6th Cir. 1966).

As stated on the record on October 17, 2008, after consideration of the expert report submitted by Dr. Brewer this Court concludes that the evidence establishes that Defendant is competent to stand trial in this matter.

Accordingly, the Court ORDERS that Defendant is competent to stand trial in this action.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: October 21, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 21, 2008, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager